



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/681,698

10/07/2003

Ming-Hsiung Lee

453-015

5873

7590

10/01/2004

John G. Chupa

Law Offices of John Chupa & Associates, P.C.

Suite 50

28535 Orchard Lake Road

Farmington Hills, MI 48334

EXAMINER

COLE, LAURA C

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 10/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/681,698

Applicant(s)

LEE, MING-HSIUNG

Examiner

Laura C Cole

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Oath/Declaration

1. Applicant has not given a post office address anywhere in the application papers as required by 37 CFR 1.33(a), which was in effect at the time of filing of the oath or declaration. A statement over applicant's signature providing a complete post office address is required.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "two engaging sections" (Claim 3) and the crank arm at the end of a rack (Claim 7) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the

Art Unit: 1744

changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "423" (Figure 4). Corrected drawing sheets, or amendment to the specification to add the reference character(s) in the description, are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is somewhat confusing. In lines 3-4, it is unclear as to whether the push stem is physically connected to (the term "joining" is particularly confusing) to the brush handle part, or whether the brush handle part having an elongated push groove receives a push stem. Also, the Examiner is curious as to how the "brush handle part joins a push stem with an elongated push groove at the push stem." Further in lines 10-14, it is confusing as to how the rotary brush part having a rotary brush head is "joined to the push stem."

Claim 2, it is unclear as to what is meant by "hunched up."

Claim 3, it is unclear as to what is meant by "the push stem can be joined to the brush handle part by way of two engaging sections." The examiner is confused as to what is what the "push stem" is and that "the push stem can be joined to the brush handle part by way of two engaging sections" does not have antecedent basis in the specification or drawings.

Claim 4, it is unclear as to whether the base or the brush seat (or both) are to have lateral sides with a baffle extending.

Claim 5, the recitation "the brush seat surrounding *an periphery thereof*..." is confusing.

Claim 6, the recitation "the rotary brush part at the rotary brush head thereof has a lower fitting hole to fit with a *rotary rod and the rotary rod at an end thereof* extends a crank arm..." is awkward and somewhat confusing.

Claim 7 recites the limitation "the crank" in Line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-3 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Hazeu et al., USPN 5,835,030.

Hazeu et al. discloses the claimed invention including a push handle (52) that is a “brush handle part” joining a push stem (61) with an elongated push groove at the push stem (see Figures 5-7, near where “60” is pointing), a base (8) surrounded by a base edge (where “13” is pointing in Figure 5) to form an open top base chamfer (see Figures 5-6) and providing a base hole (see top most portion of the base in Figure 5 which has an opening nearest the label “61”), a brush seat (16 and 75, see Figure 7) of which both ends have a “hair” seat with each hair seat having brush hairs thereof (11 and 76) and having a circular seat recess (unlabeled, however Figure 5 shows a distinct recess formed between the portion having the label “74” and the portion having the label “69”) with a central brush hole (73) , and a rotary brush part (14) providing a rotary brush head with brush “hairs” (9) at the seat recess and being joined to the brush stem (Column 11 Lines 12-37). The area at the base hole is a hunched up base ridge (see Figure 5). The push stem is capable of being joined to the brush handle part by way of two engaging sections (the two engaging sections are the elongated hole and the outer surface of the push stem.) The brush seat surrounding a periphery thereof has a

Art Unit: 1744

reduced insert part fitting with the base (see Figures 5-7, the brush seat has a smaller insert portion fitting within the base when assembled).

6. Claims 1, 3, 5, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Amit, USPN 5,120,225 (herein '225).

'225 discloses the claimed invention including a push handle (11) that is a "brush handle part" joining a push stem (73) with an elongated push groove at the push stem (35), a base (40) surrounded by a base edge (42, 43, and 44) to form an open top base chamfer (see Figure 1) and providing a base hole (45), a brush seat (60) of which both ends have a "hair" seat with each hair seat having brush hairs thereof (62, 63, and 64) and having a circular seat recess (65) with a central brush hole (66, Column 5 Lines 42-47) , and a rotary brush part (67) providing a rotary brush head with brush "hairs" (68) at the seat recess and being joined to the brush stem for being rotated (see Figures 1 and 5 of the assembly; Column 5 Line 62 to Column 6 Line 2). The push stem is capable of being joined to the brush handle part by way of two engaging sections (the two engaging sections are the elongated hole and the outer surface of the push stem.) The brush seat surrounding a periphery thereof has a reduced insert part fitting with the base (see Figures 1-5, the brush seat has a smaller insert portion fitting within the base when assembled). The push groove provides a rack (37) and the rotary brush head has a gear (71) meshing with the rack that passes through the push groove (see Figures 1-5) and is received in the base hole (via 73) so that the brush head can rotate while the rack is moved (Column 6 Lines 28-64).

7. Claims 1, 3, 5, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Amit et al., USPN 5,186,627 (herein '627).

'627 discloses the claimed invention including a push handle (10) that is a "brush handle part" joining a push stem (34) with an elongated push groove at the push stem (13), a base (40) surrounded by a base edge (42, 43) to form an open top base chamfer (see Figure 1) and providing a base hole (46), a brush seat (20) of which both ends have a "hair" seat with each hair seat having brush hairs thereof (see Figure 1; 25) and having a circular seat recess (21) with a central brush hole (22), and a rotary brush part (30) providing a rotary brush head with brush "hairs" (36) at the seat recess and being joined to the brush stem for being rotated (see Figures 1-3 of the assembly; Column 8 Line 47 to Column 9 Line 8). The push stem is capable of being joined to the brush handle part by way of two engaging sections (the two engaging sections are the elongated hole and the outer surface of the push stem.) The brush seat surrounding a periphery thereof has a reduced insert part fitting with the base (see Figures 1-3, the brush seat has a smaller insert portion fitting within the base when assembled). The push groove provides a rack (14) and the rotary brush head has a gear (32) meshing with the rack that passes through the push groove (see Figures 1-3) and is received in the base hole (via 34) so that the brush head can rotate while the rack is moved (Column 8 Line 47 to Column 9 Line 8).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 1744

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hazeu et al., USPN 5,836,030 in view of Chan, US 2003/0226223.

Hazeu et al. disclose all elements above, however the two sides of a brush seat do not include a baffle extending therefrom.

Chan discloses an electric toothbrush that includes a base, a brush seat, and an oscillating brush part, wherein the brush seat includes baffles extending therefrom (two examples of which are "2332" in Figure 36 and "2845" and "2832" in Figure 42).

It would have been obvious for one of ordinary skill in the art to modify the two sides of a brush seat of Hazeu et al. to include a baffle, such as Chan teaches, in order to protect a user's gums or teeth from the moving portions of the brush seat itself.

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Amit, USPN 5,120,225 ('225) in view of Chan, US 2003/0226223.

'225 discloses all elements above, however the two sides of a brush seat do not include a baffle extending therefrom.

Chan discloses an electric toothbrush that includes a base, a brush seat, and an oscillating brush part, wherein the brush seat includes baffles extending therefrom (two examples of which are "2332" in Figure 36 and "2845" and "2832" in Figure 42).

It would have been obvious for one of ordinary skill in the art to modify the two sides of a brush seat of '225 to include a baffle, such as Chan teaches, in order to protect a user's gums or teeth from the moving portions of the brush seat itself.

Allowable Subject Matter

10. Claim 6 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

USPN 6,751,823 to Biro et al. disclose a toothbrush that uses a crank mechanism to rotate a brush that is within a brush seat and base.

USPN 5,226,206 to Davidovitz et al. disclose a toothbrush having to rotary members disposed within a brush seat/base and has a push stem.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C Cole whose telephone number is (571) 272-1272. The examiner can normally be reached on Monday-Thursday, 7:30am - 5pm, alternating Fridays.

Art Unit: 1744

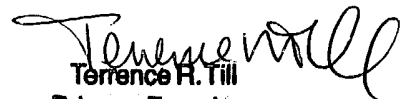
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J Warden can be reached on (571) 272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LCC

LCC

29 September 2004


Terrence H. Till
Primary Examiner